

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Implementation of the Subscriber)	
Carrier Selection Changes Provisions)	
of the Telecommunications Act of 1996)	CC Docket No. 94-129
)	
Policies and Rules Changes Concerning)	
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
REPLY COMMENTS
IN SUPPORT OF THE PETITION FOR RECONSIDERATION
FILED BY
RURAL INCUMBENT LOCAL EXCHANGE CARRIERS**

The National Telecommunications Cooperative Association (NTCA)¹ hereby submits its reply comments in response to the Federal Communications Commission's (Commission or FCC) Public Notice seeking comment in the above-captioned proceeding.² NTCA partially supports the petition for reconsideration filed by the rural incumbent local exchange carriers (rural ILECs), which asks the Commission to reconsider and rescind its requirement that local exchange carriers (LECs) re-verify³ all long distance carrier change requests verbally initiated by

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 560 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

²*In the Matter Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket 94-129, Report No. 2616, Public Notice (rel. July, 7, 2003).

³ Re-verification would require either a signed letter of authorization (LOA) from the customer or re-verification from an independent third party verifier.

a LEC customer.⁴ NTCA specifically recommends that the Commission exempt only rural ILECs from the application of its new verification requirement.

NTCA's recommendation is based in part on the separate petitions for reconsideration and clarification filed by large LECs requesting that the new primary interexchange carrier (PIC) change requirement not apply to a LEC customer's PIC change request that would require the LEC to switch the customer to a non-LEC affiliated long distance service.⁵ On May 23, 2003, four days after the rural ILEC petition was filed, the Commission issued its clarifying order finding that the new verification requirement would be limited to only those LEC customer PIC change requests seeking to switch their long distance service to either the LEC or an affiliate of the LEC.⁶ Large LECs have not sought further relief from this ruling. Rural ILECs, however, do seek relief from this ruling.

The recent occurrence of large LECs providing long distance service in more than forty states formed the basis for the Commission to impose the new primary interexchange carrier

⁴ Rural ILEC Petition for Reconsideration (filed May 19, 2003) concerning *In the Matter Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket 94-129, Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking, FCC 03-42 (Order) (rel. Mar.17, 2003).

⁵ See *Ex Parte* Letter of Verizon, BellSouth, SBC Telecommunications Inc., and Qwest, CC Docket No. 94-129, dated May 2, 2003 (Joint Letter); Petition for Clarification or, in the Alternative, Reconsideration of the United State Telecom Association (USTA), CC Docket No. 94-129, p. 1, dated May 19, 2003 (In their petition USTA requested that the Commission clarify that its new verification rules do not apply to a PIC change order that a LEC receives from its customer requesting a change in the customer's long distance carrier to another carrier that is neither the LEC itself nor an affiliate of the LEC); see also, Petition for Reconsideration, Sprint Corporation, CC Docket No. 94-129, dated May 19, 2003; and AT&T Petition for Partial Reconsideration or, in the Alternative, Request for Clarification, CC Docket No. 94-129, dated May 19, 2003.

⁶ *In the Matter Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket 94-129, FCC 03-116, ¶ 5 (Clarifying Order) (rel. May 23, 2003).

(PIC) change verification requirements on all LECs.⁷ This may be a reasonable basis to apply the new requirement to large LECs, but it should not be the basis for applying the requirement to rural ILECs. Rural ILECs have been providing long distance service and implementing PIC changes for consumers for more than a decade and, in many instances, longer than most large LECs. During this time the Commission has not issued a single slamming enforcement order against a rural ILEC.⁸ A review of the Commission's enforcement orders, however, demonstrates that slamming violations have been levied against non-rural ILECs, including MCI and AT&T - the two parties opposing the rural ILEC petition.⁹ Punishing rural ILECs and their customers for the unlawful behavior of others is not in the public interest.

The rural ILEC petition and the supporting comments filed by the Pennsylvania Telephone Association (PTA) correctly recognize that the new verification requirement will increase rural ILEC costs as a result of printing, mailing and processing letters of authorization (LOA). The new verification requirement will also decrease rural ILEC revenues by delaying PIC changes and will increase customer dissatisfaction as a consequence of waiting to receive an LOA in the mail and then having to sign and return it before their local phone company can switch their long distance service provider.¹⁰

AT&T argues "the fact that an LOA may take longer to process is of no consequence."¹¹ AT&T is wrong. There is an adverse consequence when rural consumers have to wait days and

⁷ Order, ¶ 91.

⁸ See, <http://www.fcc.gov/eb/tcd/slam.html>.

⁹ See, *FCC Action Nets Highest Slamming Payment Ever MCI WorldCom to Pay \$3.5 Million*, FCC News Release (June 6, 2000). See also, *In the Matter of AT&T Communications Inc. Apparent Liability for Forfeiture*, File No. EB-00-TC-006, NAL/Acct. No. 200132170015 (rel. September 11, 2001)(Order on Reconsideration)(Commission assessed a forfeiture of \$520,000 against AT&T for slamming violations).

¹⁰ Rural ILEC petition, pp. 3-4, PTA Comments, pp. 3-4.

¹¹ AT&T Comments, p 5. See also, MCI Comments, pp. 6-7.

weeks to process switch to their carrier of choice that in the past may have taken less than one day. Rural consumers are accustomed to receiving high quality customer service from rural ILECs. This practice has allowed rural ILECs to meet their customer needs in a timely manner and distinguishes rural ILECs from other carriers that have been the subject of the Commission's enforcement orders.

Rural consumers should not have to wait to switch long-distance carriers because the Commission assumes all LECs will slam their local exchange customers in the future.¹² Pure, unsupported speculation should not be the basis for regulatory intervention in rural ILEC service areas. The long history of rural ILECs providing long distance service without slamming proves the Commission's assumption is false. It is simply not in the interest of rural ILECs to slam their own customers. In doing so, a rural ILEC would risk its reputation of reliable and responsible customer service and jeopardize its continued provision of local and long distance service to its customers.

NTCA recommends that the Commission take a wait-and-see approach before imposing the new verification requirement on rural ILECs. The Commission should monitor future slamming enforcement orders concerning inappropriate PIC changes. If slamming enforcement orders against rural ILECs never materialize, the Commission will have spared rural consumers from unnecessary delays and preserved longstanding good customer relations between rural ILECs and their customers.

NTCA urges the Commission to exercise its authority under the Regulatory Flexibility Act (RFA) of 1980 and exempt rural ILECs from the new verification requirement. When a rule

¹² Order, ¶ 91.

will have a significant impact on a substantial number of small entities, such as rural telephone companies, the RFA permits the FCC to adopt an alternative to obtain its objective in a less burdensome way on small entities.¹³ By exempting rural ILECs from the revised verification requirement until such time as circumstances may warrant otherwise, the Commission will achieve its goal in a less burdensome way. The Commission should acknowledge the lack of slamming violations against rural ILECs and recognize the outstanding quality customer service that rural ILECs have provided their customers for years by exempting them from the new verification requirement.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

By: /s/ L. Marie Guillory
L. Marie Guillory

By: /s/ Daniel Mitchell
Daniel Mitchell

Its Attorneys
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
(703) 351-2000

August 8, 2003

¹³ 5 U.S.C. § 601.

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of National Telecommunications Cooperative Association Reply Comments in Support of the Petition for Reconsideration filed by Rural Incumbent Local Exchange Carriers in CC Docket No. 94-129, Report No. 2616, Public Notice, rel. July 7, 2003, was served on this 8th day of August 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

Gail Malloy

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, D.C. 20554

Commissioner Jonathan Adelstein
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington D.C. 20554

Susan J. Bahr
Law Offices of Susan Bahr, PC
Rural Incumbent Local Exchange
Carriers
P.O. Box 86089
Montgomery Village, MD 20886-6089

Commissioner Kevin J. Martin
Federal Communications Commission
445 12th Street, SW, Room 8-A-204
Washington, D.C. 20554

Lawrence J. Lafaro, Esq.
Peter H. Jacoby, Esq.
Martha Lewis Marcus
AT&T Corp.
One AT&T Way
Bedminster, NJ 07921

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, D.C. 20554

Norman James Kennard, Esq.
Malatesta Hawke & Mckeen LLP
100 North Tenth Street
Harrisburg, PA 17101

Qualex International Portals II
445 12th Street, SW
Room CY-B402
Washington, D.C. 20554

Karen Reidy, Esq.
WorldCom
1133 19th Street, NW
Washington, D.C. 20036